

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

MICHAEL THOMPSON

PLAINTIFF

v.

CIVIL ACTION NO.3:14-CV-274-NBB-JAA

CALVIN HAMP, in his individual capacity,
JAMES JONES, in his individual capacity, and
UNKNOWN DEFENDANTS "A", "B" and
"C"

PLAINTIFF'S AMENDED RESPONSE
IN OPPOSITION TO DEFENDANTS' JOINT MOTION FOR SUMMARY
JUDGMENT BASED ON QUALIFIED IMMUNITY

COMES NOW, Plaintiff Michael Thompson, by and through his undersigned counsel of record and files this, his Amended Response in Opposition to Defendants' Joint Motion for Summary Judgment Based on Qualified Immunity. Defendants Calvin Hamp and James Jones claim in their Motion for Summary Judgment [Ct. Doc. No. 54] that they are qualifiedly immune from suit in this case and, therefore, should not be required to defend against this action at trial. The defendants are wrong on this point.

Plaintiff Thompson's Second Amended Complaint against the defendants uses Title 42 U.S.C. § 1983 to pursue claims of unreasonable and unlawful search and seizure and false arrest, in violation of U.S. CONST., AMEND. IV and XIV; and retaliation for free speech, in violation of U.S. CONST., AMEND. I and XIV. [Ct. Doc. No. 13]. Plaintiff also alleges the defendants unlawfully conspired to violate the plaintiff's Constitutional rights, in violation of Title 42 U.S.C. § 1985, and committed state law violations that the plaintiff pursues pursuant to the Mississippi Tort Claims Act, MISS. CODE ANN. § 11-46-1, et seq. [Ct. Doc. No. 13].

The facts of this case, taken in the light most favorable to the plaintiff, show that Defendants Hamp's and Jones' conduct violated the plaintiff's federal rights. Moreover, those rights in question were clearly established at the time of the alleged violation. On February 12, 2015, Defendant Jones, acting in concert with Defendant Hamp, unlawfully arrested Plaintiff Thompson and effectuated an unlawful search and seizure against him, all in violation of Mr. Thompson's Fourth and First Amendment rights. The Fourth Amendment rights to be free from false arrest and unlawful search and seizure—without a duly issued warrant or without probable cause—were clearly established rights prior to the defendants' untoward and unlawful conduct. In addition, Plaintiff Thompson's rights to freedom of speech were also clearly established prior to the alleged wrongs. Because the defendants retaliated against Plaintiff Thompson when they conspired to violate his clearly established rights, they are not entitled to qualified immunity on the claims set forth in the plaintiff's Second Amended Complaint. In support of the plaintiff's Response, he attaches as proof of his position the following lettered exhibits:

- 1. Exhibit "A" – August 12, 2016 Deposition of Plaintiff Michael Thompson;**
- 2. Exhibit "B" – November 29, 2016 Deposition of Defendant Calvin Hamp;**
- 3. Exhibit "C" – September 29, 2016 Deposition of Michael Strickland;**
- 4. Exhibit "D" – July 18, 2014 Justice Court Trial of State v. Michael Thompson;**
- 5. Exhibit "E" – November 29, 2016 Deposition of Defendant James Jones;**
- 6. Exhibit "F" – Audio / Video Recordings of February 12, 2014 Traffic Stops;**

7. **Exhibit “G” – November 10, 2014 Circuit Court Trial of State v. Michael Thompson;**
8. **Exhibit “H” – Affidavit of Plaintiff Michael Thompson; and**
9. **Exhibit “I” – Affidavit of Michael Strickland**

WHEREFORE, PREMISES CONSIDERED, the plaintiff respectfully requests this Court deny the defendants’ motion for summary judgment based on qualified immunity.

RESPECTFULLY SUBMITTED, on this, the 18th day of January, 2017.

MICHAEL THOMPSON
PLAINTIFF

/s/ E. Carlos Tanner, III
E. Carlos Tanner, III, Esq. (MS Bar No. 102713)
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, E. CARLOS TANNER, III, certify that on this date, January 18, 2017, I have filed the foregoing Amended Motion in Support of Response in Opposition to Defendants' Motion for Summary Judgment using the ECF system which caused notification of such filing to be submitted to all counsel of record in this cause.

So certified, on this, the 18th day of January, 2017.

/s/ E. Carlos Tanner, III
E. Carlos Tanner, III, Esq. (MS Bar No. 102713)